



STATE BOARD OF EQUALIZATION

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September 22, 1995

BURTON W. OLIVER
Executive Director
No. 95/56

TO COUNTY ASSESSORS:

COMMENCEMENT OF APPEAL DECISION PERIOD

The purpose of this letter is to clarify the commencement date for the two-year period in which the local board must make a final determination pursuant to subdivision (c) of Section 1604 of the Revenue and Taxation Code (all statutory references are to the Revenue and Taxation Code unless otherwise indicated). There is an apparent conflict concerning this commencement date.

Subdivision (c) of Section 1604 reads:

"If the county assessment appeals board fails to hear evidence and fails to make a final determination on the application for reduction in assessment of property within two years of the timely filing of the application, the taxpayer's opinion of market value as reflected on the application for reduction in assessment shall be the value upon which taxes are to be levied for the tax year covered by the application, unless either of the following occurs:

"(1) The taxpayer and the county assessment appeals board mutually agree in writing, or on the record, to an extension of time for the hearing.

"(2) The application for reduction is consolidated for hearing with another application by the same taxpayer with respect to which an extension of time for the hearing has been granted pursuant to paragraph (1).

"The reduction in assessment reflecting the taxpayer's opinion of market value shall not be made, however, until two years after the close of the filing period during which the timely application was filed. Further, this subdivision shall not apply to applications for reductions in assessments of property where the taxpayer has failed to provide full and complete information as required by law or where litigation is pending directly relating to the issues involved in the application. This subdivision is only applicable to applications filed on or after January 1, 1983."

Section 1604(c) provides an incentive for the county assessment appeals board to make a final determination within two years of the filing of an appeal. However, this subdivision appears to provide different commencement dates for this two-year period. In the first paragraph of subdivision (c), the phrase "within two years of the timely filing of the application" is used. This suggests that the commencement date is the filing date of the application. However, in the first sentence of the final paragraph of that same subdivision, it reads "[t]he reduction in assessment reflecting the taxpayer's opinion of market value shall not be made, however, until two years after the close of the filing period during which the timely application was filed." Since the date for the close of the regular filing period is September 15, this sentence suggests that the commencement date is September 15.

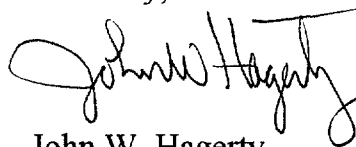
There is no conflict because the two paragraphs address two separate events. The commencement date in the first paragraph of subdivision (c) is the commencement date for the two-year period. This is the date that the county board must use to track each individual application so that the application will be heard and a final determination made within two years of the filing. The commencement date referred to in the final paragraph of subdivision (c) is the earliest date that a reduction can be made to an assessment due to the failure of the county board to make a final determination within the two-year period.

Therefore, each application must be tracked by the exact date of filing. If the determination is not made within two years of the date of filing, the applicant's opinion of value will be enrolled after the subsequent September 15. For example, a taxpayer filed an assessment appeal on July 18, 1993. The appeals board did not make a decision on the appeal; the two-year period expired at the end of the day on July 17, 1995. Although the taxpayer effectively "won" by default as of July 18, the taxpayer's opinion of value will not actually be enrolled until after September 15, 1995.

While not free of doubt, we are of the opinion that the two-year period also applies to those applications filed outside the regular period under Section 1605. This is one reason why the two-year period begins with the filing date of the application rather than at the end of the regular filing period.

If you have any questions regarding this letter, please contact our Real Property Technical Services Section at (916) 445-4982.

Sincerely,



John W. Hagerty
Deputy Director
Property Taxes Department

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